HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT APPEAL No. 27 OF 2007

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Between:

Ganta Rama Rao & others

.....
Appellants

AND

The Commissioner for Prohibition & Excise,
Government of Andhra Pradesh,
Hyderabad & others

.....Respondents

:: J U D G M E N T ::

Counsel for the appellants : Shri C. Kodanda Ram

Counsel for respondent No.6 : Shri O. Manohar Reddy

Dated: 05.01.2007

Per G.S.SINGHVI, CJ

The appellants unsuccessfully invoked the doctrines of promissory estoppel and legitimate expectation for grant of a declaration that the action of the official respondents to grant 2-B licence under the Andhra Pradesh Excise (Grant of Licence of Selling by Bar and Conditions of Licence) Rules, 2005 (for short 'the Bar Rules') is illegal and arbitrary, inasmuch as the writ petition filed by them was dismissed by the learned Single Judge vide her order dated 28.12.2006. This is the reason why they have preferred appeal under Clause 15 of the Letters Patent.

In response to notice dated 27.05.2006 issued by Collector and District Magistrate, Srikakulam (respondent No.3 herein) for grant of lease of right to sell Indian made foreign liquor/foreign liquor by shop under Rule 5 of the Andhra Pradesh Excise (Lease of Right of Selling by Shop and Conditions of Licence) Rules, 2005 (for short 'the Shop Rules') for 232 shops of Srikakulam District including 16 shops in Rajam Mandal, the appellants gave highest bids in respect of the shops in Rajam Mandal and on that basis they were granted A-4 licences under the Shop Rules. After availing the licences, the appellants filed writ petition under Article 226 of the Constitution for restraining the official respondents from granting licence under the Bar Rules to respondent No.6 – Giri Santhosh Kumar on the ground that bar licence cannot be granted in view of the restriction contained in the

Shop Rules.

In the affidavit filed by Shri Kemburi Krishna (appellant No.13), it was averred that in the notification dated 27.05.2006 issued by District Collector, Srikakulam, the shops were shown in Rajam Mandal and, therefore, the petitioners had given high bids but now the official respondents were contemplating to grant 2-B licence to respondent No.6 for running bar and restaurant in the name of M/s Sai Srinivasa Restaurant and Bar. The deponent further averred that vide notification dated 07.10.2005, the Government had declared Rajam as Nagar Panchayat by merging Ponugutivalasa, Kothavalasa, Kondampeta, Saradhi with Rajam Gram Panchayat, but the same is subject matter of challenge in Writ Petition Nos.23723, 23727 and 23736 of 2005 and order of status quo has been passed by the High Court on 06.01.2006.

The learned Single Judge took cognizance of the fact that vide notification dated 07.10.2005, Rajam Mandal had been declared as Nagar Panchayat and held that the Court cannot restrain the official respondents from granting 2-B licence in Nagar Panchayat area. The reasons assigned by the learned Single Judge for refusing relief to the appellants are as under:

> " From the material on record, it is clear that in the notification dated 27.05.2006 issued under Rule 5 of the Rules, Rajam was wrongly notified as a Mandal instead of Nagar Panchayat in spite of the fact that by that time Rajam Grampanchayt was already merged with the surrounding Gramapanchayats and was declared as Nagar Panchayat. It is not the case of the petitioners that they were not aware of the fact that Rajam was already declared as Nagar

Panchayat. The averments in the affidavit filed in support of the writ petition make it very clear that the petitioners had knowledge about the fact that the Rajam was declared as Nagar Panchayat with effect from 17.10.2005. Having voluntarily participated in the auction pursuant to the notification dated 27.05.2006 and having obtained Form A-4 licences, they cannot turn back and raise an objection at this stage for grant of Bar licences in Form 2-B.

The plea of the petitioners that the bar licences if any granted would adversely affect their business cannot be a justifiable ground to issue a Mandamus restraining the respondents 1 to 4 from exercising the statutory powers conferred under Bar Rules. Absolutely no case is made out to show that the impugned action of the respondents 1 to 4 in proposing to grant Form 2-B licence in Rajam Nagar Panchayat is in violation of the statutory provisions. Hence, the relief as prayed for cannot be granted."

Shri C.Kodanda Ram reiterated the arguments advanced before the learned Single Judge and submitted that rejection of the appellants' challenge to the grant of 2-B licence in favour of respondent No.6 should be declared erroneous and a writ of prohibition be issued to the official respondents restraining them from granting 2-B licence to respondent No.6. Learned counsel laid great emphasis on the language of notification dated 27.05.2006 and argued that notwithstanding the declaration of Rajam as Nagar Panchayat by the State Government vide notification dated 07.10.2005, the Collector had invited offers by showing Rajam as Mandal for the purpose of allotment of shops and, therefore, the appellants cannot be deprived of their legitimate right to carry on business without adverse impact of a bar licence

being granted to respondent No.6.

In our opinion, there is no merit in the arguments of the learned counsel. It is true that notification dated 27.05.2006 issued by District Collector, Srikakulam did not correctly reflect the status of Rajam, inasmuch as it was shown as Mandal instead of Nagar Panchayat, but in our considered view, this mistake did not, in any manner, mislead the appellants. They were very much aware of the fact that vide notification dated 07.10.2005, Rajam had been declared as Nagar Panchayat by merging Kothavalasa, Kondampeta, Ponugutivalasa with Rajam Gram Panchayat. They also knew that Writ Petition Nos. 23723, 23727 and 23736 of 2005 filed against notification dated 07.10.2005 were pending before this Court and an order of status quo was passed on 06.01.2006 and in that view of the matter, the status of the area continued to be that of Nagar Panchayat. It is, therefore, not possible to accept the bald assertion contained in paragraph 4 of the affidavit of Shri Kemburi Krishna that they had given very high bids keeping in view the so-called representation made in the notification of the District Collector.

We are further of the view that in such matters, doctrines of promissory estoppel, legitimate expectation cannot be invoked for restraining the public authorities from acting in accordance with the relevant statutory provisions.

In the result, the appeal is dismissed. However, the appellants are given liberty to represent to the authorities of Prohibition & Excise Department to surrender their licences by stating that they were mislead in giving higher bids on account of

the notification issued by the District Collector, Srikakulam.

As a sequel to dismissal of the appeal, W.A.M.P.No. 41 of 2007 filed by the appellants for interim relief is also dismissed.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

05.01.2007
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